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12 **UNITED STATES DISTRICT COURT**  
13 **NORTHERN DISTRICT OF CALIFORNIA**  
14 **SAN JOSE DIVISION**

15 ARTIE LASHBROOK,  
16 Plaintiff,  
17 vs.  
18 CITY OF SAN JOSE,  
19 Defendant.

**CLASS ACTION**

Case No.: 5:20-cv-1236-NC

**PLAINTIFF’S NOTICE OF MOTION AND  
MOTION FOR SERVICE AWARD;  
MEMORANDUM OF POINTS AND  
AUTHORITIES IN SUPPORT THEREOF**

Date: September 2, 2020  
Time: 1:00 p.m.  
Dept: Courtroom 5  
Before: Hon. Nathanael Cousins

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**NOTICE OF MOTION**

TO ALL PARTIES AND THEIR RESPECTIVE ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE THAT, at 1:00 p.m. on September 2, 2020, in Courtroom 5 of the United States District Court for the Northern District of California, located at 280 South 1st St., San Jose, California 95113, Plaintiff Artie Lashbrook will and hereby does move the Court for an order awarding \$5,000 to Plaintiff Lashbrook for his efforts and contributions on behalf of the Settlement Class.

This motion is based on this Notice of Motion and Motion; the Memorandum of Points and Authorities in support thereof, the Declarations of Artie Lashbrook, Linda M. Dardarian, Timothy P. Fox in Support of Joint Motion for Preliminary Approval of Class Action Settlement that were filed in this case on April 21, 2020, the other records, pleadings, and papers filed in this case; and such other evidence or argument that may be presented at the hearing on this motion. Pursuant to Local Rule 54-5, the parties met and conferred regarding this motion. As a result of those efforts, Defendant City of San Jose (“the City” or “Defendant”) does not oppose this motion.

**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. INTRODUCTION**

Plaintiff Artie Lashbrook (“Plaintiff” or “Class Representative”) expended considerable time and effort to achieve full and equal access to curb ramps throughout the City of San Jose’s pedestrian right of way on behalf of people with mobility disabilities. His contributions toward the settlement of this case have been important and substantive. Thanks to Plaintiff Lashbrook’s efforts on behalf of the class, Defendant is required to construct and remediate over 27,000 curb ramps on City streets by the end of 2038. Defendant will appropriate in excess of \$130 million over the term of the Consent Decree to fund this curb ramp work.

In recognition of his time, efforts, and risk undertaken over the prior six years in which the parties negotiated this important and landmark settlement on behalf of the Class, Plaintiff seeks a service award of \$5,000. The requested service award is further supported by the important public policies underlying Plaintiff’s claims. The Class Representative has consistently demonstrated that he takes his duties toward Class members seriously.

1 Plaintiff’s request for a service award is reasonable and should be granted.

2 **II. FACTUAL BACKGROUND**

3 Plaintiff represents a class of “all persons (including residents of and/or visitors to the City of  
4 San Jose) with any Mobility Disability, who, at any time prior to court judgment granting Final  
5 Approval to [the] Consent Decree have been denied full and equal access to the City’s pedestrian right  
6 of way due to the lack of a curb ramp or a curb ramp that was damaged, in need of repair, or otherwise  
7 in a condition not suitable or sufficient for use” (the “Class”). Declaration of Linda M. Dardarian in  
8 Support of Joint Motion for Preliminary Approval of Class Action Settlement (“Dardarian Decl.”), Ex.  
9 2 (Consent Decree § 2.19), ECF No. 10-1. This Court appointed Plaintiff as a Class Representative on  
10 May 27, 2020, after finding that he had claims typical of the claims of the Class and would fairly and  
11 adequately protect the interests of the Class. Order ¶ 1, ECF No. 14.

12 Plaintiff Artie Lashbrook began working on this case in 2014. *See* Lashbrook Decl. in Supp. Jt.  
13 Mot. Preliminary Approval of Class Action Settlement (“Lashbrook Decl.”) ¶ 15, April 21, 2020, ECF  
14 No. 10-3. Plaintiff is a life-long resident of San Jose and uses a wheelchair for mobility. Lashbrook  
15 Decl. ¶¶ 2-3. Plaintiff has faced significant barriers in his personal life due to the inaccessible curb  
16 ramps in the areas in which he visits and lives, including in his neighborhood, bus stops, and grocery  
17 stores. Lashbrook Decl. ¶¶ 4-9. This deep experience made Plaintiff Lashbrook an ideal class  
18 representative for this case. For example, because he does not own an automobile, Plaintiff relies on  
19 public transportation and the pedestrian right of way to navigate the City. *Id.* at ¶ 3. Therefore, curb  
20 ramps are essential for Plaintiff’s independence and full participation in society. *Id.* Plaintiff is  
21 frequently inconvenienced by having to navigate these barriers and must backtrack or take different  
22 routes to get to his intended destinations, which has subjected him to lengthy travel times and has  
23 caused him stress, fear, frustration, and anxiety. Lashbrook Decl. ¶¶ 4-9. Plaintiff has also risked his  
24 physical safety and well-being when he encountered barriers—Plaintiff has often been forced to travel  
25 in the street with vehicular traffic when he was unable to access the sidewalk or crosswalk because of

1 curb ramps that are missing entirely or are non-compliant with disability access specifications.

2 Lashbrook Decl. ¶¶ 5-6, 9.<sup>1</sup>

3 Plaintiff brought this case in order to improve the accessibility of the City of San Jose's  
4 pedestrian right of way, on behalf of himself and all other residents and visitors with mobility  
5 disabilities, as well as future generations of people with mobility disabilities. Lashbrook Decl. ¶ 23.  
6 Prior to participating in the case, Plaintiff felt that publicly attaching his name to a major case against a  
7 large municipality may have negative consequences and potentially affect his personal reputation.  
8 Lashbrook Decl. ¶ 16. However, he decided that being lead Plaintiff in this case was more important  
9 than any potential negative impact to his personal reputation. Lashbrook Decl. ¶ 16.

10 Throughout the several years since the inception of this case, Plaintiff spent many hours  
11 assisting Class Counsel with the case's factual development, strategic direction, and settlement. In  
12 particular, Plaintiff spent time discussing with Class Counsel and identifying locations in the City's  
13 pedestrian right of way where curb ramps are missing, in disrepair, or otherwise insufficient for use by  
14 individuals with mobility disabilities. Lashbrook Decl. ¶ 18. Plaintiff recalled specific instances in  
15 which his movement around the City was impaired by the City's failure to repair and maintain the  
16 City's curb ramps. Lashbrook Decl. ¶¶ 4-9. Plaintiff additionally provided Class Counsel with  
17 photographs documenting intersections where curb ramps were non-compliant or missing. Lashbrook  
18 Decl. ¶ 18 (estimating ten hours identifying, documenting, and photographing access barriers and ten  
19 hours discussing with class counsel). Plaintiff also spent time reaching out and talking to other people  
20 with mobility disabilities in San Jose for input regarding non-compliant curb ramps. Lashbrook Decl.  
21 ¶ 22 (estimating two hours on outreach).

22 Plaintiff has contributed significantly to the successful resolution of this case. In addition to his  
23 time investigating the case and working with Class Counsel to present these claims to the City,  
24 Plaintiff attended an in-person meeting with his attorneys and the City of San Jose. Lashbrook Decl.

25  
26 \_\_\_\_\_  
27 <sup>1</sup> In his Declaration, Plaintiff Lashbrook recounts three harrowing experiences where he was thrown  
28 out of his wheelchair because of unsafe curb ramps. While he is being compensated for those  
incidents through a separate damages award, those experiences further motivated his work on behalf  
of the class and strengthened his resolve to reach the best result possible to ensure that the City's curb  
ramp system would be made accessible to persons with mobility disabilities.

1 ¶ 19. At the meeting, Plaintiff described the obstacles he faced when traveling around the City and  
2 gave the City specific examples of the frustration and inconvenience he feels when he comes across  
3 missing curb ramps. Lashbrook Decl. ¶ 19. As a result of this meeting, the City became much more  
4 cooperative in trying to resolve the claims presented on behalf of Plaintiff and all other similarly  
5 situated users of the City's pedestrian right of way.

6 Prior to the meeting, Plaintiff met with Class Counsel twice to strategize and prepare for the  
7 meeting. Lashbrook Decl. ¶ 19 (first meeting was for an hour and a half (1.5) and the second meeting  
8 was for a half hour (0.5)). Plaintiff thereafter was available and responsive by phone and email to  
9 answer Class Counsel's questions and to discuss the status of the negotiations throughout the years  
10 over which those negotiations took place. Lashbrook Decl. ¶¶ 19-20 (estimating total of four hours  
11 spent meeting with attorneys in person and thirteen hours communicating with attorneys by phone).  
12 Plaintiff routinely called Class Counsel to check on the progress of the negotiations with the City. He  
13 also stayed abreast of issues that potentially affected the case, including the passage of SB 1 (Road  
14 Repair and Accountability Act of 2017), local sales tax measures, large scale development projects that  
15 could result in the construction of curb ramps, and other issues affecting the City's finances. He  
16 informed Class Counsel of any relevant information he learned. Over the course of the negotiations,  
17 Plaintiff spoke with his attorneys approximately forty-five times. Lashbrook Decl. ¶ 20.

18 Once the Parties reached a final settlement, Plaintiff carefully reviewed the settlement terms to  
19 ensure that they were fair, adequate and reasonable and provided meaningful relief to the class  
20 throughout each year of the Consent Decree. Lashbrook Decl. ¶ 21 (estimating six hours reviewing the  
21 Consent Decree).

22 Plaintiff took his role as Class Representative seriously, staying up to date with Class Counsel  
23 through phone calls and emails about upcoming deadlines and the status of the case. Lashbrook Decl.  
24 ¶ 13. Plaintiff will be available to assist in the implementation of the Consent Decree over the eighteen  
25 years that it will be in effect. Lashbrook Decl. ¶ 13.

26 In total, Plaintiff has spent approximately thirty-five (35) hours investigating this case, working  
27 with Class Counsel on negotiation positions and strategy, and bringing this case to a successful  
28 resolution. Lashbrook Decl. ¶ 17. These numbers do not account for the many additional hours



1 Plaintiff will spend over the course of the next eighteen years educating his community about the  
2 settlement and working with the City to resolve any issues that may arise.

3 The Consent Decree provides that Plaintiff may apply for a service award of up to \$5,000.  
4 Consent Decree § 15.5. This term was negotiated after the parties resolved all injunctive relief issues  
5 in the Consent Decree. Dardarian Decl. ¶ 10. The City does not oppose this award. Consent Decree §  
6 15.5.

7 The Consent Decree requires the City to construct and remediate 27,621 curb ramps on City  
8 streets by the end of 2038, and to appropriate in excess of \$130 million over the term of the Consent  
9 Decree to fund this curb ramp work. Dardarian Decl. ¶¶ 13-14. Settlement Class Members will have  
10 the opportunity to request curb ramp construction and remediation at specific locations, and the City is  
11 obligated to use best efforts to resolve those requests within 120 days. Consent Decree § 11.4.

12 Without Plaintiff's time and effort dedicated to gathering and presenting evidence and coming forward  
13 to represent the interests of all persons with mobility disabilities who seek full and equal access to San  
14 Jose's pedestrian right of way, the Parties may not have reached such an excellent result for the Class.

15 The Court granted preliminary approval of the settlement on May 27, 2020. (ECF No. 14.)  
16 The class notice ordered by the Court informed class members that Plaintiff intended to seek this  
17 \$5,000 service award. To date, no class member has objected to the service award sought by Plaintiff.

### 18 **III. LEGAL STANDARD**

19 Service awards are common in class action cases. *Rodriguez v. West Publ'g Corp.*, 563 F.3d  
20 948, 958 (9th Cir. 2009) (service awards "are fairly typical in class action cases"); *Staton v. Boeing*  
21 *Co.*, 327 F.3d 938, 977 (9th Cir. 2003) ("named plaintiffs ... are eligible for reasonable incentive  
22 payments"). The purpose of such awards is "to compensate class representatives for work done on  
23 behalf of the class [and] make up for financial or reputational risk undertaken in bringing the action  
24 ...." *Rodriguez*, 563 F.3d at 958-59; *see also Staton*, 327 F.3d at 977; *Wren v. RGIS Inventory*  
25 *Specialists*, No. 06-cv-05778 JCS, 2011 WL 1230826, at \*31 (N.D. Cal. Apr. 1, 2011), supplemented,  
26 No. 06-cv-05778 JCS, 2011 WL 1838562 (N.D. Cal. May 13, 2011) ("It is well-established in this  
27 circuit that named plaintiffs in a class action are eligible for reasonable incentive payments, also  
28 known as service awards.").

1 Courts in the Ninth Circuit and the Northern District have held that a \$5,000 service award is  
 2 “presumptively reasonable.” See e.g., *Bellinghausen v. Tractor Supply Co.*, 306 F.R.D. 245, 266  
 3 (N.D. Cal. 2015) (service awards are “presumptively reasonable” in this district); Final Approval  
 4 Order at 17-19, *Foster v. Advantage Sales & Marketing, LLC.*, No. 18-cv-07205-LB (N.D. Cal. May  
 5 28, 2020), ECF No. 61 (approving \$6,000 service award for plaintiff who spent twenty-eight hours on  
 6 the case); *Shin v. Plantronics, Inc.*, No. 18-cv-05626-NC, 2020 U.S. Dist. LEXIS 19943, at \*8-10  
 7 (N.D. Cal. Jan. 31, 2020) (approving \$5,000 service award for plaintiff where case settled before  
 8 formal discovery and there was almost no adversarial motion practice); *Cabiness v. Educ. Fin. Sols.*  
 9 *LLC*, No. 16-cv-01109-JST, 2019 U.S. Dist. LEXIS 50817, at \*21-22 (N.D. Cal. Mar. 26, 2019)  
 10 (approving \$5,000 service award for plaintiff who spent over thirty hours assisting with the case);  
 11 *Padron v. Golden State Phone & Wireless*, No. 16-cv-04076-BLF, 2018 U.S. Dist. LEXIS 83610, at  
 12 \*22-23 (N.D. Cal. May 16, 2018) (approving \$5,000 service award for plaintiff who spent about  
 13 twenty hours on the case); *Saenz v. Lowe’s Home Ctrs., LLC*, No. 2:17-cv-08758-ODW (PLA), 2019  
 14 U.S. Dist. LEXIS 128066, at \*20 (C.D. Cal. July 31, 2019) (approving \$5,000 service award for  
 15 plaintiff who participated in conversations with Class Counsel regarding the case, reviewed  
 16 documents, and assisted in settlement negotiation); *Hopson v. Hanesbrands, Inc.*, No. cv-08-0844-  
 17 EDL, 2009 U.S. Dist. LEXIS 33900, at \*29 (N.D. Cal. Apr. 3, 2009) (approving \$5,000 service award  
 18 for plaintiff who provided documents to counsel, responded to telephone inquiries from counsel, and  
 19 was a general source of information which assisted the parties in reaching a settlement).

20 In evaluating requests for service awards, courts consider the following factors: (1) the amount  
 21 of time and effort spent by the class representatives on the litigation; (2) the degree to which the class  
 22 representatives’ efforts benefitted the class; (3) the personal difficulties encountered by the class  
 23 representatives<sup>2</sup>; (4) the duration of the litigation; (5) the risk to the class representatives in  
 24 commencing suit, whether financial, reputational, or otherwise; and (6) whether the litigation has  
 25 promoted important public policy. *Rodriguez*, 563 F.3d at 958-59; *Staton*, 327 F.3d at 977; *In re Wells*  
 26 *Fargo Loan Processor Overtime Pay Litig.*, No. C-07-1841-DMC, 2011 U.S. Dist. LEXIS 84541, at  
 27

28 <sup>2</sup> This factor is not at issue here.

1 \*31-32 (N.D. Cal. Aug. 2, 2011); see also *Johnson v. Fujitsu Tech. & Bus. of Am., Inc.*, No. 16-cv-  
2 03698-NC, 2018 U.S. Dist. LEXIS 80219, at \*23-24 (N.D. Cal. May 18, 2018) (approving service  
3 awards of \$7,500 for each class representative based on the class representatives' effort, cooperation  
4 and work in the case, as well as the risks undertaken by spearheading litigation.).

#### 5 **IV. ARGUMENT**

##### 6 **A. Plaintiff Lashbrook Devoted Significant Time and Effort to this Case.**

7 Plaintiff Lashbrook expended significant time and effort on this case. Plaintiff has been  
8 actively involved at each stage of the case for over six years, from investigation to negotiation to  
9 approval of the Consent Decree. His consistent involvement included participating in the investigation  
10 process; staying informed of the status of the negotiations; providing strategic input to Class Counsel;  
11 and participating in settlement decisions. Plaintiff Lashbrook estimates that he has spent at least thirty-  
12 five (35) hours working on this case. Lashbrook Decl. ¶ 17.

13 Throughout the case, Plaintiff Lashbrook assisted Class Counsel with factual development.  
14 First, Plaintiff described to Counsel his experiences with missing and non-compliant curb ramps in San  
15 Jose, detailing for Class Counsel the numerous ways the City's failure to install or maintain curb ramps  
16 had impaired his ability to move throughout the City. Lashbrook Declaration ¶ 18. Even once the  
17 negotiations were underway, Lashbrook monitored non-compliant curb ramps and reported the details  
18 to Class Counsel. Lashbrook Decl. ¶¶ 18, 20. Plaintiff's insights helped Class Counsel understand  
19 curb ramp conditions and the changes that were necessary to make pedestrian rights of way accessible  
20 to City residents and visitors with mobility disabilities.

21 In addition, Plaintiff attended an in-person meeting with the City, describing the obstacles he  
22 faced when traveling around the City and gave the City specific examples of the frustration and  
23 inconvenience he feels when coming across missing curb ramps. Lashbrook Decl. ¶ 19. Prior to the  
24 meeting, Plaintiff met with his attorneys twice to strategize for the meeting. Lashbrook Decl. ¶ 19.

25 Plaintiff's efforts also included reaching out to class members and seeking their input on non-  
26 compliant curb ramps. Lashbrook Decl. ¶ 22. He also assisted Class Counsel by participating in  
27 drafting the Complaint, reviewing and commenting on the draft Consent Decree, and submitting a  
28 declaration in support of his motion for preliminary approval of the settlement that described the

1 numerous barriers to access he has encountered while attempting to use curb ramps within the City,  
2 including non-compliant, missing and unsafe curb ramps. Lashbrook Decl. ¶¶ 17-22.

3 Courts have approved of similar service awards in cases where the plaintiff spent forty or fewer  
4 hours on the case. *See Foster v. Advantage Sales & Marketing, LLC.*, No. 18-cv-07205-LB (plaintiff  
5 spent twenty-eight hours on the case); *Cabiness*, 2019 U.S. Dist. LEXIS 50817, at \*21-22 (plaintiff  
6 “spent over thirty hours assisting with the case”); *Padron*, 2018 U.S. Dist. LEXIS 83610, at \*22-23  
7 (plaintiff spent about twenty hours on the case); *Gooding v. Vita-Mix Corp.*, No. 2:16-cv-03898-ODW  
8 (JEMx), 2018 U.S. Dist. LEXIS 13252, at \*20-21 (C.D. Cal. Jan. 25, 2018) (approving \$5,000 service  
9 award for plaintiff who spent forty hours meeting with class counsel and assisting with the litigation);  
10 *Bravo v. Gale Triangle Inc.*, No. 16-03347-BRO (GJSx), 2017 U.S. Dist. LEXIS 77714, at \*61 (C.D.  
11 Cal. Feb. 16, 2017) (approving \$5,000 service award for plaintiffs who spent thirty-six hours and  
12 twenty-nine hours working on the case).

13 Additionally, courts have approved \$5,000 service awards for plaintiffs who performed similar  
14 tasks to Plaintiff Lashbrook, such as assisting with factual development, participating in settlement  
15 negotiations, reviewing documents, and reaching out to class members. *See, e.g., Saenz*, 2019 U.S.  
16 Dist. LEXIS 128066, at \*20 (approving \$5,000 service award for plaintiff who participated in  
17 conversations with class counsel regarding the case, reviewed documents, and assisted in settlement  
18 negotiation); *Hopson*, 2009 U.S. Dist. LEXIS 33900 at \*29 (approving \$5,000 service award for  
19 plaintiff who provided documents to counsel, responded to telephone inquiries from counsel,  
20 contacted employees about the case, and was a general source of information that assisted the parties  
21 in reaching a settlement); *Shin*, 2020 U.S. Dist. LEXIS 19943 at \*8-9 (approving \$5,000 service award  
22 where case settled before formal discovery and there was almost no adversarial motion work).

23 Consistent with these decisions, Plaintiff Lashbrook should be awarded \$5,000 for the time and  
24 effort he expended for the class.

25 **B. Plaintiff Lashbrook’s Efforts Resulted in Substantial Benefits to the Class.**

26 In evaluating a requested service award, courts also consider the degree to which class  
27 representatives’ efforts benefitted the class. *Staton v. Boeing Co.*, 327 F.3d at 977. Here, Class  
28 Representative’s contributions were instrumental in bringing about this important settlement. Based

1 on his personal encounters with missing and non-compliant curb ramps, Plaintiff Lashbrook assisted  
2 Class Counsel in bringing the City to the table and negotiating and settling this case. For example,  
3 Plaintiff provided compelling examples of his experiences with non-compliant or missing curb ramps,  
4 including three separate instances in which he had been thrown out of his wheelchair and into the  
5 street. Lashbrook Decl. ¶ 8. Plaintiff further described his fear of being hit by a car while he was  
6 immobile in the street. These experiences were instrumental in conveying to the City how important  
7 accessible curb ramps are to persons with mobility disabilities and persuading the City to resolve the  
8 systemic non-compliance of its curb ramp system.

9 As a result of Plaintiff's efforts, people with mobility disabilities will have full and equal access  
10 to pedestrian rights of way in the City. This factor weighs heavily in favor of granting the modest  
11 service award requested here. *See, e.g., Black v. T-Mobile USA, Inc.*, No. 17-cv-04151-HSG, 2019  
12 U.S. Dist. LEXIS 123676, at \*21-22 (N.D. Cal. July 24, 2019) (approving \$10,000 service award in  
13 part because settlement was favorable to the class).

14 **C. The Duration of the Case Supports the Service Award.**

15 Perseverance in pursuing a class action over the course of several years also supports the  
16 approval of reasonable service awards. *See, e.g., In re Toys "R" Us – Del., Inc. – Fair & Accurate*  
17 *Credit Transactions (FACTA) Litig.*, 295 F.R.D. 438, 471 (C.D. Cal. 2014). Here, Plaintiff Lashbrook  
18 has vigorously represented the interests of the Class since 2014 and will continue to do so throughout  
19 the term of the Consent Decree. Lashbrook Decl. ¶¶ 10,15.

20 The proposed service award in this case compares favorably to service awards that have been  
21 approved in cases of similar or shorter duration. *See, e.g., Pointer v. Bank of Am., N.A.*, No. 2:14-cv-  
22 00525-KJM-CKD, 2016 U.S. Dist. LEXIS 176930, \*56-57 (E.D. Cal. Dec. 20, 2016) (granting  
23 \$10,000 service award where litigation went on for two and a half years and noting that the duration  
24 weighed in favor of granting plaintiff's incentive award); *In re Am. Apparel S'holder Litig.*, No. CV  
25 10-06352 MMM (JCGx), 2014 U.S. Dist. LEXIS 184548, at \*104-04 (C.D. Cal. July 28, 2014)  
26 (finding duration of "almost four years" of litigation weighed in favor of incentive award).  
27 Accordingly, the six-year duration of this case so far (even without considering the 18 year compliance  
28 period yet to come) weighs in favor of the requested service award.

1 **D. Plaintiff Lashbrook Faced Risk in Filing Suit.**

2 “When a class representative shoulders some degree of personal risk in joining the litigation, ...  
3 an incentive award is especially important.” *In re Toys R Us*, 295 F.R.D. at 470; *Weeks v. Kellogg Co.*,  
4 No. CV 09-08102 (MMM) (RZx), 2011 U.S. Dist. LEXIS 155472, at \*139 (C.D. Cal. Nov. 23, 2011).  
5 However, personal risk is not necessary for courts to approve service awards but is only one of several  
6 factors to be considered. *See Toys R Us*, 295 F.R.D at 470-72 (approving \$5,000 service award for  
7 each plaintiff despite finding that they shouldered no personal risk in joining the litigation). Courts  
8 consider not just risks of workplace retaliation, but also other financial and reputational risks. *See*,  
9 *e.g.*, *Wren*, No. C-06-05778 JCS, 2011 U.S. Dist. LEXIS 38667, at \*92.

10 Here, Plaintiff Lashbrook’s name has been published in the local newspaper and for the next  
11 eighteen years will be publicly attached to a major case against a large municipality. This may  
12 potentially affect his personal reputation in a negative way. Lashbrook Decl. ¶ 16. Plaintiff  
13 shouldered the risk of being tainted publicly as a “drive-by” litigant, rather than a serious advocate for  
14 the rights of people with disabilities. Plaintiff pursued this case in spite of the real danger of  
15 reputational harm, which further supports the requested service award.

16 **E. Plaintiff Lashbrook Has Acted in the Best Interests of the Class.**

17 Plaintiff has always acted in the best interest of the class. He understood that as Class  
18 Representative he had a duty to act in the best interests of the class, and he has fulfilled this obligation  
19 faithfully throughout the case. Lashbrook Decl. ¶ 13. In fact, the reason he brought this case was to  
20 make a difference for all people with mobility disabilities in the City of San Jose.

21 Finally, the Consent Decree provides that Plaintiff may seek up to \$5,000 as a service award,  
22 and to date, no class member has objected to the settlement in any respect, including with regard to the  
23 service award.

24 **F. The Requested Service Award Promotes the Public Policies Underlying the ADA.**

25 Approving the requested service award will promote the important public policies underlying  
26 Plaintiff’s civil-rights claims. Congress enacted the ADA to empower people with disabilities to live  
27 full and independent lives to the maximum extent possible. *See* 42 U.S.C. § 12101(a)(7). Congress  
28 expressly intended to address “indirect forms of discrimination” that result from inaction rather than

